IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7812 OF 2006

Shri Ravsaheb Bharmu Magdum, .. Petitioner.
Vs
Shri Dhondilal Hirachandra Shah
(deceased) through L.Rs
1.Smt Pramila Dhonilal Shah and ors... Respondents.

Mr N.J.Patil, for the petitioner.
Mr Amit Borkar, for the respondents.

CORAM : **D.B.BHOSALE,J.**
DATE : 09/03/2007

PC:

1. Heard the learned counsel for the parties.

2. This petition is directed against the concurrent judgments of the courts below, by which a suit filed by the respondents-plaintiffs for eviction on the ground of default available under section 12 of the Bombay Rents, Hotel and Lodging House Rates Control Act,1947, has been decreed. The courts below have considered all the defences propounded by the petitioner including the one that in view of explanation-III to Section 12 that if a tenant pays taxes or charges to the Municipal Corporation, he shall be deemed to have paid the rent to the extent of deductions so made by him. As a matter of fact, there is a clear finding that the alleged payment of Rs.5400/- to the corporation towards taxes has not been proved by the petitioner-tenant. This finding is

based on the material on record. Moreover, in paragraphs 12 and 13 the appellate court has proceeded to record that the petitioner-tenant failed to tender the rent within one month after the notice was received nor did he deposit the rent in the court after filing of the suit as contemplated under section 12. I find no reason to interfere with these findings of fact in extremely limited jurisdiction of this court under Article 227 of the Constitution of India. In the circumstances, the writ petition fails and dismissed as such.

(D.B.BHOSALE,J.)